

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
(CENTRAL DIVISION)**

**CINDY STANFORD AND BRIAN BANSE,
HUSBAND AND WIFE
Plaintiffs,**

vs.

**THE CITY OF DES MOINES, IOWA; AND
OFFICER MATTHEW HUNTER, DES
MOINES POLICE DEPARTMENT, IN HIS
OFFICIAL CAPACITY AND MATTHEW
HUNTER PERSONALLY AND OFFICER
DOUA LOR, DES MOINES POLICE
DEPARTMENT, IN HIS OFFICIAL
CAPACITY AND PERSONALLY**

Defendants.

**Polk County District Court
Case No. CV 5819**

**Federal District Court
Case No. 4:05cv00490**

AMENDED COMPLAINT

INTRODUCTORY STATEMENT

COMES NOW the Plaintiffs, Cindy Stanford and Brian Banse, husband and wife, by their attorney, Terrance E. Swanson and files this amended Petition pursuant to Fed. R. of Civ. Proc. § 15(a) and leave of the Court.

JURISDICTION AND VENUE

1. This lawsuit is filed pursuant to the 4th Amendment to the United States Constitution and 42 USC § 1983 which provides concurrent jurisdiction to State and Federal Courts. The case was originally filed in the Fifth Judicial District Court of the State of Iowa on or about August 11, 2005. It was removed to Federal District Court by the above named Defendant City of Des Moines, Iowa pursuant to 28 USC § 1441(a) and (c) on or about August 28, 2005.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1331 and 1343. In addition, the Court has authority under 28 U.S.C. 2201 to provide appropriate declaratory relief as to matters within its jurisdiction.
3. Venue is proper in the Southern District pursuant to 28 U.S.C. § 1391(b) because the Plaintiffs and Defendants are located in the Southern District of Iowa .

PARTIES

4. Plaintiffs are citizens and taxpayers of Polk County in the State of Iowa living at 1336 Henderson Avenue, Des Moines, IA 50316
5. Defendants, Officer Matthew Hunter and his partner, Officer Doua Lor are Police Officers employed by the Des Moines Police Department, City of Des Moines, Iowa.
6. Defendant City of Des Moines, Iowa is a Municipality incorporated in the State of Iowa.

FACTUAL ALLEGATIONS

7. On July 11, 2005 at about 6:00 pm Officer Matthew Hunter of the Des Moines Police Department entered Plaintiff's residence after being refused permission and, without subsequent permission express or implied, conducted an extensive and intrusive search of the premises without a Search Warrant.
8. Officer Matthew Hunter, after being refused permission to enter Plaintiff's residence asserted his right to enter and search the residence and threatened Plaintiff with "immediate arrest" if she did not let him in to conduct his search.

9. Officer Doua Lor entered Plaintiff's residence without asking and without permission and proceeded to participate in the search.
10. Police Officer Matthew Hunter's behavior and demeanor, from the initial words and throughout the incident, contained a level of intensity, rudeness and confrontational belligerence that was intimidating, harassing and inappropriate.
11. Officer Matthew Hunter knowingly lied to Plaintiff by asserting that he had authority to enter and search the premises without a Search Warrant.
12. The object of the Police Officer's search was Josh Heckman, Plaintiff Brian Banse's biological son (17) who had not committed any crime and was not charged with any crime or misconduct.
13. As a direct result of this incident, Plaintiff Cindy Stanford has suffered substantial mental and physical trauma and stress related discomfort and debilitating illness.

LEGAL ASSERTIONS

13. Plaintiff's right to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures is secured by the forth amendment of the U.S. Constitution and its companion paragraph, Section 8, of the Iowa Constitution.
14. Plaintiff was denied the benefit of Judicial Review and a finding of Probable Cause required before a search warrant can be issued.
15. Defendant did not sign an oath or affirmation in support of their assertion of a right or need to search the Plaintiff's home nor did the Plaintiff have the benefit of specificity of place or limitation of persons or things that might be seized that comes with procedurally

lawful search warrants.

16. Omitted pursuant to agreement and leave of the Court.
17. Plaintiff has a right, pursuant to 42 USC Section 1983 and Iowa Code § 670.2 , to sue the Defendants for actual damages arising from the violation of their constitutional rights.
18. Plaintiff asserts that the behavior of Officer Hunter was sufficiently egregious as to constitute evidence of Malice and Intent pursuant to Fed. R. of C. Proc. § 9(b) and therefore support a request for punitive damages.

WHEREFORE Plaintiffs request the following Relief:

1. A declaratory Judgement that Defendant's Search of Plaintiff's home without a warrant was a violation of the Fourth Amendment of the U.S. Constitution;
2. An award of actual damages for stress, trauma, sleep loss, actual and psychological pain, and other distress suffered by Cindy Stanford resulting from Defendant's violation of Plaintiff's rights up to \$25,000;
3. An award of punitive damages against Officer Hunter pursuant to legal allegations in paragraph 18;
4. An award of attorney fees and costs pursuant to 42 U.S.C. § 1988;
5. Such other relief as may be appropriate.

Date: OCTOBER 20, 2005

/s/ TERRANCE E. SWANSON

Signature

Terrance E. Swanson

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